IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2778 OF 2007

1. Smt.K.A.Lakhani & Ors. .. Petitioners.

V/s.

Union of India & Anr. .. Respondents.

Mr.R.S.Apte with N.R.Bubna for the Petitioners.

CORAM : F.I. REBELLO AND
R.M. SAVANT, JJ.

DATED : 17th APRIL, 2007.

P.C.:

. The petitioners were appointed as Data Entry Operators (DEO) Grade-A. It is their contention that they were assured by the respondents that they will be promoted to the posts of DEO Grade -B. The petitioners approach this court on the ground of their non-promotion.

2. The respondents in their reply contended that the applicants/ petitioners could not be given promotions, as mentioned in the offer of their appointments owing to ban imposed by DOPT for creation of posts. On the contrary, there was reduction in the existing vacancies also. Consequently, the applicants/petitioners could not be promoted in the

absence of the posts. It is therefore, clear that the Respondents do not deny the fact that the petitioners were assured promotion to DEO Grade -B. However, in view of reduction of the posts, they could not be considered.

3. The law is now well settled that an employee has a right for consideration for promotion but there is no vested right in promotion. If there are posts available and yet the petitioners were not promoted and/ or in an arbitrary manner, the promotions are denied then the court can interfere. In the instant case, all that is pointed out to us is a policy by which the respondents can create posts by abolishing other posts. It is not possible for this court to direct the respondents to create posts or abolish posts. That is purely a policy matter for the respondents.

4. Apart from that, the order of the Tribunal in paragraph -6, makes it clear that remedial action has been taken by permitting the petitioners to appear for departmental examination for administrative cadres, which is a deviation from the earlier policy and has been done to resolve the difficulties faced by the applicants/ petitioners. Material was also adduced to show that the petitioners have appeared in the

examination. Apart from that, the reference is also made to the ACP Scheme.

5. We do not propose to go into all these aspects. Suffice it to say that if there were posts of DEOs, only then the relief that is sought for could have been granted. In the absence of such posts, the relief prayed for cannot be granted.

6. Needless to say that if the posts of DEOs Grade-B are created or vacant and if the petitioners are eligible, they should be considered for the same.

7. Hence, no interference is called for in the exercise of our extra ordinary jurisdiction. Petition rejected.

(F.I.REBELLO,J.)

(R.M.SAVANT,J.)

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